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MCCARTER MACHINE INC
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MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Patent No. 6,443,817 :
Issued: 09/03/2002 :
Application No. 09/778,525 : ON PETITION
Filed: 02/06/2001 :
Attorney Docket No. MCCARTER-1: :
:

This is in response to the petition under 37 CFR 1.378(c) filed December 27, 2011.

The patent issued on September 3, 2002. The grace period for paying the 7.5-year maintenance fee expired on September 4, 2010.

Pursuant to 37 CFR 1.378(a), the Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee.

Any petition to accept an unintentionally delayed payment of a maintenance fee filed under 37 CFR 1.378(c) must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:

- (1) the required maintenance fee set forth in § 1.20(e)-(g);
- (2) the surcharge set forth in § 1.20(i)(2); and
- (3) a statement that the delay in payment of the maintenance fee was unintentional.

Lastly, a petition under 37 CFR 1.378(c) must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. See 37 CFR 1.378(d).

On October 5, 2011, patentee attempted to pay \$1,425.00 for the maintenance fee due at 7.5 years. On October 13, 2011, the Office mailed a Notice of Non-Acceptance of Patent Maintenance Fee indicating that the maintenance fee payment was not accepted and no charge was applied to the credit card because the patent had expired. On October 28, 2011, the Office received a communication signed by only one of the patentees, Douglas R. McCarter, seeking reinstatement of the patent. The communication included payment of the \$1,425.00 maintenance fee and the \$1,640.00 surcharge where late payment was unintentional. The Office acknowledges receipt of fees totaling \$3,065.00.

On December 12, 2011, the Office mailed a letter to patentee in response to the communication of October 28, 2011, indicating that patentee did not file an appropriate petition under 37 CFR 1.378(c) or include a statement that the delay in payment of the maintenance fee was unintentional. Additionally, the Office noted that the communication was signed only by Douglas R. McCarter and advised patentee that if Mr. McCarter was acting on behalf of the assignee, he must submit a Statement under 37 CFR 3.73(b). The letter set a period of one (1) month or thirty (30) days to submit a petition under 37 CFR 1.378(c). No additional fees were required.

On December 27, 2011, patentee submitted a petition under 37 CFR 1.378(c) and a Statement under 37 CFR 3.73(b) which contained the typewritten name of Douglas R. McCarter but lacked his signature. On January 4, 2012, patentee submitted a Statement under 37 CFR 3.73(b) signed by Douglas R. McCarter in his capacity as Vice President. However, patentee has not filed a petition under 37 CFR 1.378(c) signed by Mr. McCarter to date.

Accordingly, the petition will not be treated on the merits until petitioner submits a petition under 37 CFR 1.378(c) containing the signature of a person(s) having authority to act such as Mr. McCarter in accordance with 37 CFR 1.378(d). Thus, the petition is dismissed.

A properly signed petition under 37 CFR 1.378(c) must be within **ONE (1) MONTH or THIRTY (30) DAYS**, whichever is longer, of the mailing of this letter in order to be considered timely. No additional fee is due.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted electronically via the Electronic Filing System.

Telephone inquiries should be directed to the undersigned at 571-272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions